IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

Civil Application No. 1032 of 2006
in
Writ Petition No.6188 of 2002

Smt.Ranjanaben Harish Ganatra ..Applicant

vs.

1. Harshad Poonamchand Doshi
and another ..Respondent

Shri R.D.Suryavanshi i/b Shri D.G.Naik for Applicant
Shri Shukla i/b M/s Desai and Diwanji for respondent no.1.

CORAM: S.B.MHASE J.
7th April, 2006

P.C.

1. Heard both the learned Counsel.

2. It has been brought to the notice of this Court that the petitioner has approached by way of Writ Petition No.6188 of 2002. This Court has admitted the petition and issued the Rule. Interim relief in terms of prayer clause (c) was also granted. Prayer clause (c) is to the following effect:

> "(c) To grant, during the pendency of this writ petition, stay of the operation, execution and implementation to the judgment and order dated 16.2.2002 passed by the learned IIIrd Additional District Judge, Thane in Misc.Civil Appeal No.185 of 2001 and judgment and order dated 23.10.2001 passed by the learned III Joint civil Judge, Senior

Division, Thanel below application Exhibit 5 in Special Civil Suit No.327 of 2001."

Thus the interim order which has been passed only stays the operation, execution and implementation of the impugned order in the petition. There was no stay granted by this Court to the effect that the trial court should not proceed with the hearing and disposal of the suit. However, from perusal of order dated 29th March, 2006 passed below Exh.1 in Special Civil Suit No.327 of 2001 it appears that after having dictated the part of the judgment the Trial Court has stayed further dictation on the ground that the petition is pending. In fact in the said petition there is no stay for further proceedings in the matter and, therefore, order dated 29th March, 2006 was not warranted in the facts and circumstances of the case. Therefore, civil application is allowed in terms of prayer clause (a).

(S.B.MHASE J.)